IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.157 OF 2004

Shri Atul Sadashiv Kulkarni — Applicant

Vs.

Special Land Acquisition Officer
No.12, Kolhapur & ors. — Respondents

Mr.A.M.Kulkarni for applicant.
Mrs.G.P.Mulekar, AGP for respondent nos.1 to 3.

CORAM: B.H.MARLAPALLE,J.

August 05, 2005.

ORAL ORDER:

1. Heard Mr.Kulkarni, the learned counsel for the petitioner. Perused the affidavit-in-reply filed by the Special Land Acquisition Officer No.12, Kolhapur. The chronological events in respect of acquisition of the petitioner's land are as under:

(A) Notification under Section 4 of the Land Acquisition Act was issued on 20-4-2000.

(B) Notification under Section 6 of the said Act was issued on 11-1-2001.

(C) Award under Section 11 came to be passed on 30-9-2002.

(D) Notices under Section 12(2) of the Act were sought to be served on the land owners on 18-6-2003 and they refused to accept the said notices.

(E) The applicant gave representation on 18-8-2003 to the District Rehabilitation Officer, Kolhapur and applied for certified copy of the Award on 8-6-2004.

2. The reference under Section 18 was moved on 10-6-2004 and by the impugned order dated 14-6-2004 it was refused to be entertained on the ground of delay. The Government has taken possession of the subject land on 24-11-2004. Talathi's report dated 19-8-2003 along with the panchanama made by the said Officer on 18-6-2003 is annexed along with the affidavit. Thus the view taken by the Land Acquisition Officer that the application under Section 18 of the Act was moved belatedly cannot be faulted with if regards be had to the fact that the notices under Section 12(2) of the Act were sought to be served on 18-6-2003. In view of the Full Bench

decision of this Court in the case of Suresh Marutrao Jadahv v. State of Maharashtra **[2002 (5) Bom.C.R. 347]**, the impugned order does not call for any interference.

3. Mr. Kulkarni, the learned counsel for the applicant contended that neither the notice under Section 12(2) nor the award passed under Section 11 of the Act was ever served on the applicant and, therefore, the limitation period available to him was of six months from moving an application under Section 18 of the Act. He also referred to the provisions of Section 45 of the Act and submitted that notice under Section 12(2) was required to be displayed on the door of the applicant's house and in the absence of any proof to this effect, such a notice was never served in law. In support of these contentions he relied upon the decisions of the Supreme Court in the case of Raja Harish Chandra Raj Singh vs. The Deputy Land Acquisition Officer and anr. reported in **AIR 1961 SC 1500** and State of Punjab vs. Mst. Qaisar Jehan Begum and anr. reported in **AIR 1963 SC 1604**. He also placed reliance on a decision of this Court in the case of Keshav Dattu Patil vs. The State of Maharashtra

reported in **AIR 1978 Bombay 289**. In the case of State of Punjab vs. Mst. Qaisar Jehan Begum (Supra) a three judge bench considered the provisions of Section 12(2) of the Act and observed, inter alia, as under :-

> "Now, knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under S. 12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it or not."

4. In the instant case the affidavit filed by the Land Acquisition Officer clearly states that the village Talathi sought to serve the notice under Section 12(2) of the Act on the applicant on 18/6/2003 and he refused to accept the said notice. Panchanama was drawn by the Talathi in the presence of two witnesses in the village Chawdi where the applicant was called upon to accept the notice under Section 12(2) and the Talathi submitted his report on 19/6/2003 to the Land Acquisition Officer pointing out that when the notice was sought to be served on the applicant he refused to accept it. It appears from the record that in all there were 27 applicants

who were sought to be served with the notice under Section 12(2) of the Act by the village Talathi on 18/6/2003 and the applicant was one of those who refused to accept the said notice. Under such circumstances, it has to be held that the provisions of Section 45 (2) were duly complied with and affixing the notice on the outer door of the house could arise only when the applicant could not be found and no adult male member of his family was available.

5. In the premises, the challenge to the impugned order fails at the threshold and, therefore, the revision application is hereby rejected summarily.

(B.H.MARLAPALLE,J.)